EUB

Centrica Canada Limited

Applications to Construct and Operate a Sweet Natural Gas Pipeline and Sweet Oil Effluent Pipeline, Redwater Area

November 26, 2002

Alberta Energy and Utilities Board

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ALBERTA ENERGY AND UTILITIES BOARD
Decision 2002-101: Centrica Canada Limited
Applications to Construct and Operate a Sweet Natural Gas Pipeline
and Sweet Oil Effluent Pipeline, Redwater Area
Applications No. 1247777 and 1269154

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Contents

1 DECISION 1

2 INTRODUCTION 1
- 2.1 Applications No. 1247777 and 1269154 1
- 2.2 Intervention 2
- 2.3 Prehearing Meeting and Hearing 3

3 ISSUES RAISED AT THE HEARING 3

4 NEED FOR THE PIPELINES 4
- 4.1 Views of the Parties 4
- 4.2 Views of the Board 4

5 BOARD'S AUTHORITY - PIPELINE REMOVAL UPON ABANDONMENT 5
- 5.1 Views of the Parties 5
- 5.2 Views of the Board 6

6 APPLIED FOR PIPELINES: ABANDONMENT IN-PLACE VERSUS REMOVAL 6
- 6.1 Views of the Parties 6
- 6.2 Views of the Board 8
  - 6.2.1 Adequacy of the Board's Process and Applicant Obligations 8
  - 6.2.2 Determining a Pipeline's Useful Life 9
  - 6.2.3 Risks and Potential Negative Landowner Financial Consequences 9
  - 6.2.4 Determination of Requiring Pipeline Removal at Abandonment 11

7 APPLIED FOR PIPELINES: PROPOSED ADDENDUM 12
- 7.1 Views of the Parties 12
- 7.2 Views of the Board 13

8 IMPROVEMENTS: BOARD'S PROCESS – PIPELINE ABANDONMENT: NOTIFICATION AND APPLICATION 14
- 8.1 Views of the Parties 14
- 8.2 Views of the Board 16

9 PROPOSED PIPELINE ROUTES – VIEWS OF THE PARTIES 19
- 9.1 Route A (Application # 1247777 or Western Route – East of Residence) 19
- 9.2 Route B (Most Westerly Route – West of the Residence) 20
- 9.3 Route C (Application 1269154 or Eastern Route) 21
- 9.4 Berrien Route 22
- 9.5 Routes D, E, and F 24

10 VIEWS OF THE BOARD - PIPELINE ROUTING 26
- 10.1 Views of the Board – Route A and Berrien Route 26
- 10.2 Majority View of the Board – Route C 27
- 10.3 Minority View of the Board – Route C 27
- 10.4 Views of the Board – Future Pipeline Applications 30

11 SUMMARY OF KEY FINDINGS 31

APPENDIX 1 – BOARD'S OCTOBER 16, 2002, LETTER TO PARTIES 37

APPENDIX 2 - THOSE WHO APPEARED AT THE HEARING 39

ALBERTA ENERGY AND UTILITIES BOARD
Calgary Alberta

CENTRICA CANADA LIMITED
APPLICATIONS TO CONSTRUCT AND
OPERATE A SWEET NATURAL GAS
PIPELINE AND
SWEET OIL EFFLUENT PIPELINE **Decision 2002-101**
REDWATER AREA **Applications No. 1247777 and 1269154**

1 DECISION

The Board does not approve Route A. The Board believes that this westerly route could be optimized to reduce landowner impact.

Although parts of Route C could be acceptable, the Board majority does not believe that Route C is itself acceptable. The Board majority notes the concern of the Mr. Yaworski about the impact of Route C on his agricultural plot testing business. The Board majority believes this concern to be legitimate. Accordingly, the Board majority does not approve the complete Route C as being optimal, without prejudice to a future application.

Further, the Board majority notes that Mr. Yaworski had concerns about the 9-1 pad site wells being drilled on his land and that subsequently, the wells were then drilled on Cholowski's land with the consent of the Cholowskis. The Board majority believes that it would be fairer for Cholowskis to have at least part of the pipeline route on its lands, given that the Cholowskis accepted the drilling of the wells.

For a further summary, the Board refers the interested reader to the Summary of Key Findings.
(Click here to go to the Summary of Key Findings)

2 INTRODUCTION

2.1 Applications No. 1247777 and 1269154

Centrica Canada Limited submitted two alternative routes for the subject pipelines, as discussed below.

Application No. 1247777 - "Western Route" or Route "A"

Herein, referred to as the "Western route" or Route "A", in accordance with Part 4 of the *Pipeline Act*, Centrica Canada Limited (Centrica) submitted Application No. 1247777 to the Alberta Energy and Utilities Board (EUB/Board) for approval to construct and operate a sweet natural gas pipeline and a sweet oil effluent pipeline from Legal Subdivision (LSD) 9, Section 1, Township 56, Range 21, West of the 4th Meridian (LSD 9-1-56-21W4M) to a tie-in point at LSD 9-12-56-21W4M.

These pipelines would run on the west side of Highway 830 in a common ditch for approximately 1.5 kilometres (km). The sweet natural gas pipeline would have a 60.3-millimetre (mm) outside diameter (OD), while the sweet oil effluent pipeline would be 88.9 mm OD.

Although a variation of Route A was discussed in the proceeding, referred to as Route B, Centrica did not apply for this route. Routes A and B were essentially the same with Route B going to the west of the residence in the southeast (SE) quarter of section 12-56-21 W4M.

Application No. 1269154 – "Eastern Route" or Route "C"

Herein referred to as the "Eastern route" or "Route C", in accordance with Part 4 of the *Pipeline Act*, Centrica submitted Application No. 1269154 for approval to construct and operate a sweet natural gas pipeline and a sweet oil effluent pipeline from LSD 9-1-56-21W4M (9-1 pad site) to a tie in point at LSD 12-7-56-20W4M.

These pipelines would run on the east side of Highway 830 in a common ditch for approximately 1.7 km. The sweet natural gas pipeline would have a 60.3 mm, OD, while the sweet oil effluent pipeline would be 88.9 mm OD. This proposed pipeline route would be an alternative to Route A proposed in Application No. 1247777 listed above. Application No. 1269154 was filed following the prehearing meeting held on April 5, 2002.

2.2 Intervention

In response to the proposed pipeline Route A, several area landowners and occupants on the west side of Highway 830 (the Western Group), who are directly affected by the proposed pipelines, raised concerns about the pipelines and Centrica's reluctance to agree to remove the pipelines when the pipelines and associated wells are abandoned.

Mr. Cholowski, president of Cholowski Farms Ltd. and landowner in the northeast (NE) quarter of section 1-56-21W4M raised the concern that the pipelines should be removed upon abandonment. In addition, he raised concerns with pipeline construction techniques, the depth of burial of pipelines and impacts to drainage on adjoining lands to the pipeline right-of-way.

Mr. and Mrs. Esch, landowners in the SE quarter of section 12-56-21W4M requested that the pipelines be removed upon abandonment. The Eschs have a residence on their land. However, it is occupied by another party who did not intervene in the applications.

Mr. Prochnau, a joint interest owner in lands in the NE quarter of 12-56-21W4M, represented all of the landowners in that quarter section. Mr. Prochnau raised the concern that Centrica would not enter into an agreement with him to remove the pipelines upon abandonment.

Mr. and Mrs. Guenette, of D & A Guenette Farms Ltd., reside in the SE quarter of section 1-56-21W4M. The Guenettes are also occupants on the Cholowski and Esch's land and therefore they raised concerns with the proposed pipelines.

In response to the proposed pipeline Route C, Mr. Yaworski and other family members who he represented, requested that Centrica be required to remove the pipelines from their lands upon abandonment of the pipelines and connected wells. The Yaworskis also requested that a number of conditions be attached to the licences for the pipelines. The Yaworskis own land in the

northwest quarter of section 6-56-20W4M and the SW quarter of section 7-56-20W4M on the east side of Highway 830 (the Eastern Group).

2.3 Prehearing Meeting and Hearing

The Board held a prehearing meeting in Nisku, Alberta, on April 5, 2002, before Board Members A. J. Berg, P.Eng. (Presiding Member), J. R. Nichol, P.Eng., and G. J. Miller. Subsequently, Decision 2002-040 set out the issues to be considered at the hearing, the site visit date, hearing date and a schedule for filing submissions.

Subsequent to the prehearing meeting, Centrica filed an application for Route C. At the request of Centrica, the Board directed that this application be heard together with the application for Route A.

The Board, Board staff, and other hearing participants visited the general area of the proposed pipelines on June 19, 2002. The attached Figures 1 and 2 illustrate the locations of the proposed and alternative pipeline routes.

The Board held a public hearing on Centrica's applications commencing on June 20, 2002, before Board Members A. J. Berg, P.Eng. (Presiding Member), J. R. Nichol, P.Eng., and G. J. Miller. The oral portion of the hearing closed on June 21, 2002, and the Board directed that written argument be submitted by July 16, 2002, and written reply be submitted by July 23, 2002. Those dates were subsequently changed at the request of the parties to July 19, 2002, and July 26, 2002, respectively.

On October 16, 2002, the Board sent a letter to the parties (Appendix 1), which reopened the hearing to consider additional information about alternative pipeline routes that had not been fully examined. The Board directed parties to comment on the alternative routes according to a schedule that required those comments to be filed by November 12, 2002.[1]

Accordingly, the close of evidence for this proceeding was November 12, 2002.

Those who appeared at the hearing are listed in Appendix 2.

Reference in this Decision Report to the Majority Views of the Board means the views of Panel Members A. J. Berg and G. J. Miller. Reference in this Decision Report to the Minority View means the View of Panel Member J. R. Nichol.

(Click here to return to the Table of Contents)

3 ISSUES RAISED AT THE HEARING

The Board considers the issues respecting the applications to be:

- Need for the pipelines
- Board's authority—pipeline removal upon abandonment
- Pipeline abandonment in place versus removal

[1] Appendix 1, Page 1 of October 16, 2002, letter to parties

- Proposed Addendum
- Board's process—pipeline abandonment: notification and abandonment
- Proposed pipeline routes

(Click here to return to the Table of Contents)

4 NEED FOR THE PIPELINES

4.1 Views of the Parties

Centrica said that the purpose of the proposed pipelines is to tie six wells from its 9-1 pad site into its existing multiwell battery located at LSD 15-7-56-20 W4M (15-7). In addition, Centrica said it would also tie in two wells which are currently producing to single well batteries located at LSD 4-7-56-20W4M (4-7) and LSD 5-7-56-20W4M (5-7). Centrica proposed to conserve solution gas from its 9-1, 4-7, and 5-7 batteries and consolidate the majority of the facilities into the multiwell battery at 15-7. Centrica said that the wells have a remaining producing life of 20-25 years.

Currently, oil production is being trucked from each of the batteries to the multiwell battery located at 15-7. The produced solution gas at the 9-1 battery is used to run a 500-kilowatt generator, which produces electricity for powering the six pump jack motors on the 9-1 site.

There are two 400-barrel oil production tanks and a 50-barrel test tank at the 9-1 site. Additionally, there is a header skid used for conducting well tests at the 9-1 site. There is also a 400-barrel oil production tank at each of the single well battery sites at 4-7 and 5-7, where the solution gas is currently being vented to atmosphere.

Centrica said that if the pipelines were approved, it would remove the generator and the two large production tanks at the 9-1 site, as well as the production tanks at its two single well batteries.

Centrica said the installation of pipelines would benefit the landowners by reducing trucking and noise, as well as reducing the visual impacts associated with the existing facilities.

Centrica said that there would be significant benefits to both the company and area residents if the wells were tied in, particularly when this can be accomplished with pipelines one mile in length.

The interveners did not contest the need for the pipelines.

The interveners acknowledged that reducing noise and trucking operations at the Centrica sites would be beneficial as it minimizes impacts to the landowners and residents.

4.2 Views of the Board

NEED FOR THE PIPELINES

The Board agrees that there is a need for the proposed pipelines. It also notes that the interveners did not contest the need for the pipelines.

(Click here to go to the Summary of Key Findings)

The Board recognizes that it is beneficial to reduce impacts in an area through the consolidation of facilities and it notes that this is commonly achieved by pipelining production from existing smaller facilities into larger facilities. The Board also notes that pipelines avoid the proliferation of well site facilities and promote the conservation of solution gas.

(Click here to return to the Table of Contents)

5 BOARD'S AUTHORITY - PIPELINE REMOVAL UPON ABANDONMENT

Both the applicant and the interveners stated that the issue of removal of the pipeline upon abandonment was relevant to these applications.

In its Decision 2002-040, the Board requested that each of the parties comment on the Board's authority and jurisdiction to direct the removal of a pipeline.

5.1 Views of the Parties

Views of the Applicant

The applicant stated in its written submission that subsection 9(1) of the *Pipeline Act* gives the Board discretion to impose terms and conditions when granting a licence to construct and operate a pipeline. The applicant submitted that the Board could, if circumstances warranted, impose a condition requiring that the pipeline be removed upon its abandonment, although Centrica argued that the present case did not warrant imposing such a condition.

Centrica submitted that Interim Directive ID 2000-09[2] requires pipeline licensees to inform all affected parties of an impending abandonment. Centrica submitted that notification in accordance with Guide 56[2] affords those parties affected by the abandonment an opportunity to advise the licensee of any concerns prior to the abandonment operation being undertaken. In Centrica's view, that would be the appropriate time for the licensee and affected parties to address the issue of pipeline removal If necessary an application could be submitted to the Board for an order to remove the pipeline.

The applicant also submitted that section 25 of the *Pipeline Act,* and section 68 of the *Pipeline Regulation,* provide that the abandonment of a pipeline does not relieve the licensee from responsibility for it, and the Board has jurisdiction to direct the licensee to remove a pipeline after abandonment.

The applicant referred to Decision 2002-020, which states that discussions on appropriate abandonment procedures should be considered by the owner of the pipeline in consultation with the landowner when overall need, cost-benefit, and impacts can be established with more certainty.[3] The applicant submitted that this same approach should be used in the present case with no prejudice to the landowners' ability to seek removal of the pipeline, either at the time of abandonment or thereafter. Centrica stated that it is unnecessary and impractical for the Board to

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2 Interim Directive (ID) 2000-09: Notification Requirements for the Discontinuation and Abandonment of Pipelines and the Abandonment of Facilities and Guide 56: Energy Development Application Guide.

3 Decision 2002-020, Comstate Resources Ltd., Application for Sweet Natural Gas Pipeline, Pembina Field, page 11, issued February 19, 2002

render a decision on the terms of abandonment at the time of the application to construct, considering that the legislation enables the Board to make a determination on the issue of pipeline removal at the time of abandonment or thereafter.

Views of the Interveners

The interveners stated that the Alberta Energy and Utilities Board Act, and the further authority under subsection 9(1) of the *Pipeline Act,* give the Board jurisdiction to include terms and conditions in an applicant's licence, which may include the requirement that pipelines be removed upon abandonment. To this extent, they are in agreement with the applicant.

The interveners submitted that abandonment effectively ends any grant of easement for the pipeline, and consequently ends the pipeline company's interest in the pipeline. As a result, the licensee could argue that it is no longer in occupation of the easement and therefore it is neither in control of, nor liable for, any substance that escapes from the pipeline after abandonment.

The interveners expressed concerns that environmental contaminants legislation might impose obligations on a landowner that might result from improper abandonment. The landowners indicated, in that case, they might be able to claim contribution and indemnity from the company, but this is not a certainty and therefore the landowners may be forced to assume that liability.

The interveners maintained that the abandoned pipeline systems should be removed, in order to protect the environment and the rights of the landowners. The interveners based their request for a removal condition, in part, on the belief that removal upon abandonment would minimize the risk that safety, environmental or liability issues would ultimately fall on the landowner.

5.2 Views of the Board

BOARD'S AUTHORITY - PIPELINE REMOVAL UPON ABANDONMENT

The Board is of the view that it has the authority under subsection 9(1) of the *Pipeline Act* to attach a condition to a pipeline license requiring the removal of a pipeline upon abandonment; the applicant and the interveners shared this view.
(Click here to go to the Summary of Key Findings)

(Click here to return to the Table of Contents)

6 APPLIED FOR PIPELINES: ABANDONMENT IN-PLACE VERSUS REMOVAL

6.1 Views of the Parties

Views of the Applicant

The applicant recognized that an abandoned pipeline remains licensed under the *Pipeline Act* and that it has an ongoing responsibility for it after its useful life. Centrica noted that presently there is no policy requiring pipeline removal upon abandonment.

Centrica summarized its obligations for pipeline abandonment as follows:

- To comply with all abandonment requirements in force at the time of abandonment, including cutting and capping or removal of the pipeline.
- To consult with all affected parties along the right-of-way and conduct a site-specific assessment.

Centrica suggested that notification prior to abandonment affords parties the opportunity to raise concerns and, if necessary, to ask the Board to determine whether the pipeline must be removed. The applicant stated that it would not remove a pipeline simply at the request of a landowner, but went on to speculate that there could be instances where the applicant should pay the costs of removing an abandoned pipeline, and other instances where a developer might absorb those costs or build around an abandoned line.

Centrica argued that existing land use zoning does not present a special need that warrants the Board imposing unique conditions on the pipeline approval in anticipation of potential future land development. Centrica indicated that these pipelines might not require removal, as it is unlikely that they would interfere with future industrial development.

The applicant submitted that the method of abandonment should be determined at the time of abandonment, when the parties are able to evaluate whether the pipeline interferes with the proposed development. At that time, the parties could also determine how and who should undertake the removal. The applicant estimated that the costs to remove these pipelines would range from $12,500 to $24,500, depending on the method of removal. If there were a dispute about the method of abandonment or removal, Centrica, as the licensee of the pipelines, was satisfied that the interveners' cost of resolving the dispute would be Centrica's responsibility.

Centrica maintained that if the pipelines are properly abandoned, no harmful substance could escape. Centrica also stated that Sections 25 and 68 (referred to above) are broad enough to include reclamation work or remedial operations to address any post-abandonment environmental contamination.

Views of the Interveners

Both the Western and Eastern Groups asked the Board to condition the pipeline licences, such that the pipelines must be removed upon their abandonment, reflecting the principle that companies that bring equipment onto somebody else's land ought to remove all equipment upon completion of the project.

Although the lands are currently used for farming, the interveners stated that this is only an interim use, and that the lands have been zoned for heavy, medium or light industrial development, which is deemed to be their highest value use. The Western Group was concerned that the presence of buried pipelines might reduce the price of their property on a sale to a heavy industrial developer or that such a developer might not be interested in purchasing land traversed by pipelines.

Mr. Berrien, of Berrien Associates Ltd. (Berrien), a consultant to the interveners, testified that while the existence of abandoned pipelines on these lands would not likely be an impediment to development, a prospective developer might nonetheless require the pipelines to be removed, for

which some incremental cost would be incurred. Such cost, in Mr. Berrien's view, should not be borne by landowners, either as a capital loss on the value of the property or as a cash cost for pipeline removal prior to sale of the property. The interveners stated that there does not appear to be a way for landowners to pursue compensation for costs that have been incurred as a result of an abandoned pipeline.

Berrien testified that locating the pipelines in or near a "buffer zone" adjacent to Secondary Highway 830 could minimize – but not eliminate – the likelihood that development of the lands would require removal of the pipelines.

The interveners argued that if it has not been pre-determined that the licensee is required to remove the pipelines upon abandonment, then there is no guarantee that future costs associated with the abandoned pipelines would be paid by the licensee. The interveners were concerned about uncertainties and risks for the current or future landowners such as the uncertainty of being compensated for costs they might have to incur as a result of abandoned pipelines.

Furthermore, the interveners stated that they wanted the comfort of knowing that any problems or environmental damage that might occur during the life of the pipelines would be discovered upon their removal and could then be rectified.

The interveners stressed that these lands are unique in that there is a high probability of industrial development taking place in the future, and unless the issue of pipeline removal is determined at the time of the initial application it will leave much uncertainty for the landowners.

The Interveners noted that there are no benefits to a landowner in leaving abandoned pipelines in the ground. They suggested that for the landowner the disadvantages, impacts and risks associated with abandoned pipelines far outweigh the actual cost to the applicant of removal and reclamation, and that delaying the decision on removing the pipe benefits no one.

6.2 Views of the Board

Applied for Pipelines: Abandonment In-Place Versus Removal

The Board believes that the issues to be decided are as follows:

- Adequacy of the Board's Standard Process and Obligations of the Applicant
- Determining a Pipeline's Useful Life
- Risks and Potential Negative Financial Consequences to the Landowners:
  Environmental risks, and
  Risks of being unable to develop or sell the property for industrial purposes
- Determination and Alternative Mitigating Measures

(Click here to return to the Table of Contents)

6.2.1 Adequacy of the Board's Process and Applicant Obligations

Prior to discussing the issues and findings, it would be useful to review the Board's standard process in these matters.

The Board has a separate process in place for abandonment and removal of pipelines when they are no longer required, which would be activated at the abandonment stage of a pipeline. The

apparent uncertainty about this process appears to be a significant reason for the request to include a condition in a pipeline licence requiring its removal upon abandonment.

Therefore, the Board believes that it would be helpful to review some key elements of the current practice and policy with respect to pipeline matters as follows:

- All pipelines remain on EUB records, whether or not the pipelines are operating, discontinued or abandoned.
- Pipelines, in the ordinary course, do not need to be removed upon abandonment.
- The best time to determine appropriate abandonment procedures is when the pipelines are no longer required and better information might be available to consider all of the impacts.
- Parties who may be directly and adversely impacted have the right to object to any proposed abandonment procedure.
- Costs for a future proceeding related to a bona fide objection to any abandonment procedure would be determined through the local intervener cost rules in force at the time of that proceeding.
- At any time during the pipeline's life, landowners and other affected parties could approach the Board for remedies, such as moving or removing the pipeline, if the pipeline was imposing unacceptable impacts.
- Landowners or other affected parties can ask the Board to revisit these issues and remedy adverse situations, even after approval to abandon the pipeline in place has been granted.
- The right to object to or revisit these issues exists regardless of any agreement that the parties might have otherwise signed.

(Click here to go to the Summary of Key Findings)

(Click here to return to the Table of Contents)

6.2.2 Determining a Pipeline's Useful Life

The interveners have requested that the Board condition the pipeline approval to require removal of the pipeline upon abandonment, rather than allowing the option of abandoning the pipeline in place.

The Board recognizes that the end of the useful life of a pipeline is not necessarily easy to define. Pipelines have, in other parts of the province, continued to give service after the original purpose for the pipelines has ended, including the abandonment of the original wells feeding the pipelines. The Board is further aware that pipelines might be temporarily discontinued rather than abandoned. Therefore, specifying a termination date is not always a straight forward matter.

(Click here to return to the Table of Contents)

6.2.3 Risks and Potential Negative Landowner Financial Consequences

The Board understands that landowners are concerned about future impacts of any pipeline on their use of the land, and for potential liabilities. The Board notes that the interveners argued that if it has not been pre-determined that the operator is required to remove the pipeline upon its abandonment, then there is no guarantee that future costs associated with the abandoned pipeline would be paid by the company.

The Board believes that existing legislative provisions, statutory protections and EUB policy address some of these issues. These provisions are as follows:

- Under the *Environmental Protection and Enhancement Act*, the person responsible for a substance is required to remediate a release under Section 112.
- Under Section 113, an environmental protection order can be issued to that person. Additionally, under Section 25 of the *Pipeline Act*, a licensee's liability continues post-abandonment.
- With respect to environmental measures, Alberta Environment has processes to remedy situations at any time during the life of the pipeline.
- The Orphan Fund is responsible for reclamation of orphan facilities.
- The Board believes that contamination liability should not fall to landowners, and the Board believes that current legislation is in place to ensure that licensees bear full responsibility.
- The Board believes that landowners should not be burdened with costs or other unacceptable impacts as a result of a pipeline, whether operating, discontinued or abandoned.

(Click here to go to the Summary of Key Findings)

The Board notes that including a removal condition in a permit is not necessarily a "guarantee" that removal would be done without further Board process.

With respect to the responsibility for future costs, the Board notes that Centrica agreed, as licensee, that it would normally be responsible for these costs.

As discussed later in this Decision, the Board recognizes that improvements are necessary to ensure that all parties understand both their respective rights, and the process that is to be followed in consulting on these matters.

Given the evidence presented in the hearing, the Board notes that the cost of removal is not an unreasonably high cost for the current pipeline applications. Further, the Board expects that any proponent would have considered the potential cost of removal of a pipeline in the project economics of the full-cycle operating and investment costs.

The Board notes that Berrien also testified that the existence of abandoned pipelines on these lands would not likely be an impediment to development, but that a prospective developer might nonetheless require the pipelines to be removed, for which some incremental cost would be incurred.

The Board agrees that any costs arising from the operation or abandonment of pipelines should not be borne by landowners, either as a capital loss on the value of the property or as a cash cost for pipeline removal prior to sale of the property. Although the Board's current processes do not provide for compensation, landowners can request the Board to remedy adverse impacts with measures that are within the Board's authority.

The Board notes that Mr. Berrien testified that locating the pipelines in or near a "buffer zone" adjacent to Secondary Highway 830 could minimize the likelihood that development of the lands would require removal of the pipelines, but that such a location could not eliminate that

possibility altogether. In a subsequent section of this Decision, the Board will provide its views on the pipeline routing.

In the following section, the Board will address the issue of conditioning a permit to require the removal of a pipeline upon its abandonment.

(Click here to return to the Table of Contents)

6.2.4 Determination of Requiring Pipeline Removal at Abandonment

The Board's current normal practice is to consider the appropriate abandonment procedure at the time the pipelines are no longer required. The Board's current normal practice is not to require pipeline removal as a condition of the pipeline approval.

If the Board were to approve one of the subject applications, the Board needs to be satisfied that none of the potential impacts identified below warrant the imposition of a condition that would require the removal of the pipelines at the time of abandonment, given that this was a major issue for the interveners. The following potential impacts were considered in reaching a conclusion respecting the need for the removal condition:

- Negative impacts on farming operations, including deep tillage;
- Negative property value impacts (recognizing the difficulty of proof);
- Extra costs of developing the land for industrial purposes including incremental costs with removal of the pipeline;
- Other negative impacts of abandoning the pipeline in place;
- Migration of pollutants onto or leaving the land via abandoned pipeline transport; and
- Environmental liability costs.

(Click here to go to the Summary of Key Findings)

The Board notes that Centrica has agreed to address the concerns with respect to drainage and depth of pipeline burial through local high spots on the land. Accordingly, the Board is not aware of any outstanding impacts on farming operations that would warrant a licence condition requiring pipeline removal of these pipelines.

In the preceding section, the Board addressed the impact on potential sale attractiveness. The Board believes that there are no unacceptable sales value impacts at this time. As long as the landowner or a future purchaser is not exposed to incremental costs, the current or future landowner should not be negatively impacted with respect to either sales value impact or extra costs.

The Board is not aware of other issues associated with deferring the abandonment question to a later date.

The Board believes that the issues of migration of pollutants and environmental liability costs could be considered now or the end of a pipeline's life.

Further, in this Decision, the Board will address a number of mitigating measures that could be taken, both in terms of conditions to the pipeline approval, if the Board were to approve one of the applied for routes and also in terms of the communication of the Board's policy in ID 2000-09.

Accordingly, in reviewing all of the above factors, the Board is not persuaded that the issues that were raised by the interveners in this proceeding support the need to condition an approval, if one is issued, to require the removal of the pipelines upon abandonment. The Board is satisfied that the removal of the pipelines is a matter that should be dealt with at the time the pipelines would be abandoned.

Accordingly, if pipelines were approved, the Board would not include a condition in the approval to remove the pipelines upon abandonment.

Given that the Board believes that the existing ID 2000-09 needs to be updated, as a mitigating measure, the Board has determined that it would include conditions in an approval regarding notification to the landowners. These conditions would be as follows:

- Notification and consultation must be provided to any affected parties, including landowners along the length of the pipeline, of the intended abandonment by removal or abandonment in place of the pipeline.
- The notification must include advice to the affected parties that they have the right to object to the EUB and the opportunity to request the Board to convene a hearing or proceeding.
- The notification must include the advice to the affected parties that the pipeline company would normally be responsible for intervener costs, according to the then current directions and practices of the Board.
- The notification must include the proposed plan in sufficient detail for interveners to understand the technical approach to removal or abandonment in place, the timing for feedback and the impacts.
- The notification must advise that the affected parties have the right to object at some future time and request removal of the pipeline even if they agree to abandonment in place at the time of notification.

(Click here to go to the Summary of Key Findings)

As stated in an earlier section of this Decision, landowners and other affected parties can approach the Board at any time, not only at abandonment time, for remedies, such as moving or removing the pipeline, if the pipeline was resulting in or imposing unacceptable impacts.

(Click here to return to the Table of Contents)

7 APPLIED FOR PIPELINES: PROPOSED ADDENDUM

In their submissions, the interveners attached an addendum, which listed a number of other conditions that the interveners requested be attached to any pipeline approval. During the proceeding, the interveners filed a revised addendum.

7.1 Views of the Parties

Views of the Applicant

Apart from the issue of assigning a condition of pipeline removal, Centrica noted that the interveners also sought to include various other conditions as set out in a form of Addendum to a right-of-way agreement.

Centrica argued that the condition requiring pipeline removal and the conditions in the proposed Addendum were unnecessary and unwarranted. Centrica submitted that there were no special circumstances in the present case justifying additional conditions beyond the standard legislative, regulatory and Board requirements for pipeline construction, operation and abandonment.

Centrica requested that the Board, in its routing decision, approve the standard conditions commonly attached to pipeline approvals. Furthermore, Centrica said that it would commit to the following actions as conditions of its pipeline approval:

- Centrica would ensure that drainage is not adversely impacted on the West or East side of Highway 830,
- Centrica would consult with the landowners and conduct a site-specific assessment prior to abandonment of the applied for pipelines, and
- Centrica would comply with all the abandonment requirements that are in force at the time of abandonment, including cutting and capping.

Views of the Interveners

Apart from the interveners' issue of attaching the condition of pipeline removal to Centrica's licence, Mr. Yaworski of the Eastern Group also requested that the Board attach a list of conditions he presented in the form of an Addendum to a right-of-way agreement. At the outset of the interveners' evidence, the Western Group advised the Board that they had amended their position to include the request to attach the Addendum to any pipeline licence issued for the west side of Highway 830.

Mr. Yaworski stated that he is a member of the North Central Surface Rights Association, a group that has been developing the addendum in an attempt to protect the interests of landowners. He stated that his group had negotiated the acceptance of the addendum in agreements with other area operators. He acknowledged that there are a number of items in the Addendum that are outside the Board's jurisdiction, and, therefore, the Board would not likely condition a licence with all the terms of the Addendum.

Mr. Prochnau said that he had entered into a right-of-way agreement with Avalanche Energy Limited (Avalanche) regarding the northeast quarter of section 12-56-21W4M, wherein Avalanche agreed to remove its pipeline after certain wells were abandoned. He was concerned that Centrica was not willing to extend the same agreement to him.

The interveners' collective position is that if the Board decides not to attach the entire Addendum to Centrica's pipeline licence, that the Board attaches the conditions that Centrica did not express objection to in its evidence. The interveners noted that of the 41 conditions contained in the Addendum, Centrica did not object to 30, and the interveners requested that, at a minimum, those 30 specific conditions be attached to the pipeline licences.

7.2 Views of the Board

Applied for Pipelines: Proposed Addendum

The Board believes that many of the terms of the addendum are reasonable conditions that parties could voluntarily agree to as part of the normal negotiating process.
(Click here to go to the Summary of Key Findings)

For example, the Board does not understand Centrica's apparently intransigent position with respect to the matter of interest charges on late payments, a matter that is largely taken for granted in most commercial arrangements. The Board wonders how much this – and similar differences – contributed to the breakdown of the negotiation process between Centrica and the landowners. In any event, the Board believes that these, and similar issues, could have been reasonably settled by reasonable people outside of the hearing room.

The Board Examiners in 2002-020 addressed a similar list of additional issues and stated as follows:

> ...As indicated previously, the examiners do not believe that certain conditions are appropriate and believe that many are already covered by regulations of various government agencies. The examiners will not be recommending that any of the conditions be linked to the EUB approval. However, the examiners hope that the parties will continue a constructive dialogue.
>
> The examiners believe that negotiations between landowners and companies should start with a recognition that both parties have rights and that they should attempt to work toward resolutions to the greatest possible extent....[4]

The Board believes that the determination made in Decision 2002-020 to exclude the addendum conditions as part of the pipeline approval continues to be valid. Reasonable approaches by both parties will prevent the application from reaching the EUB adjudicative stage and will result in the establishment of a good working relationship between the parties.
(Click here to go to the Summary of Key Findings)

(Click here to return to the Table of Contents)

8 IMPROVEMENTS: BOARD'S PROCESS – PIPELINE ABANDONMENT: NOTIFICATION AND APPLICATION

In this section, the Board will discuss possible improvements to the Board's process of pipeline abandonment including provisions for notification and application that are included in ID 2000-09.

8.1 Views of the Parties

Views of the Applicant

Centrica noted the interveners' concerns with respect to the pipeline abandonment notification and application process, and stated that the Board's requirements are clear as set out in ID 2000-09 and Guide 56.

Centrica submitted that all parties along a pipeline right-of-way route, including landowners, occupants and those within setbacks, are entitled to notification of any impending pipeline abandonment prior to the commencement of abandonment operations.

Centrica said that these parties would clearly have the opportunity to seek pipeline removal upon being notified of a proposed abandonment, or to seek a review at some future date if land use

[4] Decision 2002-020, page 14

conflict issues arose. Centrica noted that the requirement for a licensee to notify affected parties, prior to abandonment, affords parties an opportunity to advise the company of any concerns before operations to abandon the pipeline occur.

Centrica noted that the concerns common to the interveners and their expert, Berrien, are that notification does not constitute full consultation, and that the Board needs to ensure that landowners are advised of their procedural rights at the time of pipeline abandonment.

Centrica stated that the current abandonment notification and application process requirements in ID 2000-09 and Guide 56 are appropriate minimum requirements.

However, Centrica stated that if the Board determined the potential existed for parties not to be fully advised of their rights, the solution would be to clarify the requirements of the process rather than require, as a condition of approval, that pipelines be removed upon abandonment.

Centrica acknowledged the concerns raised by Berrien with respect to the wording in ID 2000-09. Centrica noted that Berrien suggested that the ID's reference to "physical abandonment operations" under the heading "Notification of Affected Parties" suggests that only those landowners whose lands are disturbed by the physical abandonment operations need to be notified.

Centrica said that it interpreted ID 2000-09 to mean that all landowners, occupants and those within setbacks along a right-of-way must be informed of the pipeline abandonment. Centrica further noted that it is only appropriate that the parties, who were notified at the licence stage, should also be notified at the abandonment stage, and that this would provide an opportunity for input on the issue of abandoning the pipeline in-place versus pipeline removal. Centrica also said that the wording in ID 2000-09 supports this interpretation because it does reflect that a licensee must inform all parties within any required setback zone.

Views of the Interveners

The interveners said that there appeared to be gaps in the Board's pipeline abandonment notification and application process under Guide 56 and ID 2000-09. They said that the uncertainties in the process caused them concern about whether their rights would be protected and whether there would be a realistic opportunity to request removal at the time of pipeline abandonment. The interveners submitted that by attaching a condition of pipeline removal to Centrica's approval now, the Board would ensure the interveners would not be impacted later by these uncertainties and by different interpretations of the Board's notification and consultation requirements.

In support of their request to condition the pipelines now with removal upon abandonment, the interveners said that it is a high probability they will not be the landowners of the subject lands at the time of abandonment. Counsel for the interveners indicated that this group of landowners and occupants might be aware of their entitlement to seek a review at the time of abandonment, however, their successors or subsequent landowners and occupants might not be aware of this right.

Berrien said there were two potential areas of misunderstanding related to the Board's ID 2000-09, Guide 56 and the pipeline abandonment process. Berrien's concern was with the meaning of "Notification of Affected Parties" in ID 2000-09.

First, Berrien noted that the meaning of notification could be misinterpreted as telling the landowner what will happen and when, instead of giving the landowner an opportunity to learn about and provide input into the proposed abandonment plan. Berrien said that this could be remedied by the Board setting out the form and content of the notification that must be provided to all parties affected by a proposed abandonment project, and that the notice should explain how the landowner may obtain more information and provide input or register an objection to the project.

Berrien said that if objections were not raised, then the abandonment project should continue to follow the process described in ID 2000-09. However, if a landowner raised an objection that remained unresolved, then some Board process should be triggered such as requiring the pipeline licensee to file a non-routine pipeline abandonment application under Guide 56. Berrien also said that there is no clear process to follow if a landowner objects to the proposed abandonment, and Berrien recommended that the Board expand ID 2000-09 to include a description of the process in cases where an objection is made to a pipeline abandonment project.

Second, Berrien said that the wording "affected parties" could be misinterpreted to mean that notification only needs to be provided to those landowners who are directly affected by the physical abandonment operations (e.g. digging, stripping). Berrien further noted that this misinterpretation could leave landowners in the mid-line locations of the pipeline without notice of the abandonment or any opportunity for input.

Berrien recommended that the wording in ID 2000-09 be modified to clear up any ambiguity on what constitutes an affected party, and they suggested the following modification under the heading of "Notification of Affected Parties" in ID 2000-09:

> Affected parties means all landowners and occupants upon, within, or through whose land the facility, well, pipeline, or portion of pipeline, to be abandoned is located. In addition, affected parties also means landowners, occupants and residents within any setback zone of the pipeline or facility.

8.2 Views of the Board

Improvements: Board's Process - Pipeline Abandonment: Notification and Application

The Board acknowledges that the parties have different views about the requirements set out in Interim Directive (ID) 2000-09: Notification Requirements for the Discontinuation and Abandonment of Pipelines and the Abandonment of Facilities and Guide 56: Energy Development Application Guide.

The Board agrees with the parties that it is very important that the process with respect to communication by pipeline operators to landowner and other affected parties be clearly understood and well documented so that all stakeholders including industry, landowners and regulators have a common understanding of the expectations and the requirements.

The Board notes that ID 2000-09 was issued in conjunction with the revised Guide 56, October 2000 edition. ID 2000-09 introduced the requirement that a licensee notify the Board of the abandonment of licensed facilities, and it replaced the previous requirement that a licensee obtain prior Board approval for the discontinuation and abandonment of a pipeline with the current notification process. The Board notes that the process was changed from having to formally apply for approval prior to discontinuing or abandoning a pipeline, to requiring that a pipeline licensee submit a licence amendment in accordance with Guide 56 within 90 days of the completion of its abandonment operations.

The Board notes, however, that this new process does not preclude the licensee from having to inform all affected parties prior to commencing any pipeline abandonment operations. The Board understands that the following wording from ID 2000-09 is the area of contention between the parties:

> ***Notification of Affected Parties***
> The EUB expects a licensee planning to abandon a well, facility, or pipeline to inform all parties of the impending abandonment before commencing abandonment operations.
>
> This would include landowners and occupants, directly affected by the physical abandonment operations and the landowners, occupants and residents within any required setback zone of the pipeline or facility.[5]

In order to clarify the requirements with respect to the process, the Board will first deal with the requirements regarding notification of pipeline abandonment operations. The Board notes that the requirement to notify affected parties prior to commencing abandonment operations is very clear and was not misinterpreted by any of the parties.

One of the issues between the parties revolved around the meaning of "notification." The Board requires and expects the following:

- Licensees proposing a pipeline abandonment project provide affected parties with the information outlined in Guide 56, Appendix 1: Public Involvement Guidelines—Minimum Information Requirements.
- In general, this information package would contain sufficient written information and description to allow the recipient to assess the impact of the total project and to participate in the decision-making process.
- The licensees' notification package would also contain a copy of the information outlined in Guide 56.
- This package will afford affected parties an opportunity to provide input on abandoning the pipeline in place versus pipeline removal, and to raise other concerns.
- Although Guide 56 provides that no formal application is required for pipeline discontinuation and abandonment, it also provides that a formal application may be required if an objection is received.
- The Board would consider such an objection as an objection under section 26 of the *Energy Resources Conservation Act,* which could ultimately result in a Board hearing.

(Click here to go to the Summary of Key Findings)

[5] ID 2000-09, page 3.

Another issue arose regarding the interpretation of who is an "affected party." The parties clearly had different interpretations of this that could lead to a misunderstanding of the requirements. Given the submissions, the Board understands that some parties could misapply or misunderstand the Board's requirements.

The Board confirms that pipeline licensees are required to notify all landowners, occupants and those within setbacks along a right-of-way, of any impending pipeline abandonment prior to those operations taking place. This includes landowners who are in mid-line locations of a pipeline. In the case of Centrica's pipelines, the Board would require that the licensee notify all parties in accordance with these requirements.
(Click here to go to the Summary of Key Findings)

Another area of potential misunderstanding relates to Guide 56. Although Guide 56 provides that no formal application is required for pipeline discontinuation and abandonment, it also provides that a formal application "may be required" if an objection is received. The Board considers that this wording should be reviewed. The Board considers that in the presence of an objection, an application "must" be filed. The Board, not the pipeline licensee, will determine whether an objection should be dismissed or adjudicated in a hearing process.

Given the matters of interpretation of the Board's pipeline abandonment notification and application process that surfaced at this hearing, this panel of the Board hereby requests staff to review ID 2000-09 and address the issues raised by the Board in this Decision. This includes reviewing the Guide 56 application requirements.
(Click here to go to the Summary of Key Findings)

On a related matter, the Board is concerned about the potential for confusion that landowners could experience from standard Right-of-Way Agreements. In Exhibit 24, a portion of the standard form of Clause 11 was struck out. The standard form of Clause 11 had a provision in the agreement that stated:

- PROVIDED HOWEVER, that the Grantee may, at its option, leave and abandon the said pipeline or pipelines in place. [6]

(Click here to go to the Summary of Key Findings)

The Board wants to make it clear to landowners that clauses in ROW Agreements, Surface Leases or any signed agreement/contract for that matter do not abrogate landowner rights or the licensee's obligations under the Statutes administered by the EUB. Clearly, parties are able to freely negotiate any clause that they wish in return for any consideration. Nonetheless, regardless of whether the landowner signed an agreement with this clause in it or not, the Board would not be constrained in considering objections from landowners or other affected parties. The Board would be concerned if landowners were not appropriately advised of their rights and the implications of this clause prior to signing any such agreement.

Accordingly, the Board will request staff to address, with the appropriate industry associations, the general issue of landowners' rights with respect to the Board's processes vs. the industry agreements that landowners are requested to sign. Further, the Board requests staff to address

[6] Alberta Right-of-Way Agreement ROW Form 1979 between Prochnau, Schryver and Avalanche Energy dated 17 May 2000

this general issue in any future revision of ID 2000-09 or other EUB publications to achieve effective communication to landowners of their rights under EUB legislation.
(Click here to go to the Summary of Key Findings)

(Click here to return to the Table of Contents)

9 PROPOSED PIPELINE ROUTES – VIEWS OF THE PARTIES

The Board heard evidence on a number of pipeline routes that had either been applied-for or proposed as an alternative route for discussion purposes. The following sections will describe the various routes considered.

It should be noted that both the Western and Eastern intervening groups were agreeable to routing a pipeline across their lands on the condition that Centrica is directed, at the time of its initial application, to remove the pipeline from their lands upon abandonment of the connected wells and pipelines. The Western and Eastern Groups also indicated that they would be agreeable to the pipeline being routed across their lands, provided the conditions in the Addendum are also attached as conditions to any pipeline license.

Centrica indicated that it is prepared to construct along either of Routes A or C, but that its preference was to construct Route C.

In addition, a route described as the Berrien route was discussed during the hearing. This route was proposed to run along the west side of Highway 830, abutting the 50 m setback. Centrica did not apply for this route.

The Board will provide its views on routing in a subsequent section of this Decision.

9.1 Route A (Application # 1247777 or Western Route – East of Residence)

This route was initially proposed by Centrica to connect the 9-1 pad site to a tie-in point with existing pipelines at 9-12-56-21W4M. Route A, as applied for, runs east of the residence located in the SE quarter of Section 12 of 56-21W4M. This was the original route applied for by Centrica and was developed with input from the Western Group landowners.

Views of the Applicant

Centrica indicated that except for the differences in the distance to tie in the 4-7 well, the three western routes (Routes A, B, and the Berrien route) were essentially the same. Of the western routes, Centrica said that Route A is its second choice. Centrica indicated it would construct along Route A, should it be approved, but that this is not the most optimal route given that it does not tie in the existing batteries at 4-7 and 5-7.

Regarding Mr. Cholowski's concern over drainage along this route, Centrica stated that its standard practice would not impede drainage on lands adjoining the right-of-way at any time of year. Centrica committed to ensuring that surface drainage is not adversely impacted on the east or west side of the Highway 830.

With respect to Mr. Cholowski's concern that any of the Western routes be buried deeper on the part of his land that has a slight hill, Centrica indicated they would comply with this request.

As discussed below, Route B was not an applied for route by Centrica.

Views of the Interveners

Berrien, speaking on behalf of the interveners, indicated that Centrica's Western routes A and B are sub-optimal as they bow in and therefore limit development that would typically occur west of the road allowance setback.

Route A would result in less impact on future land use than Route B because it affects less of the quarter section. Route A was the route on the western side of Highway 830 preferred as the second choice of the interveners. In terms of future industrial development of the lands on the western side, the placement of Route A is more optimal than Route B.

Mr. Cholowski expressed concerns with respect to drainage on his lands. The interveners requested that the Board direct Centrica to ensure drainage on the subject lands is not obstructed nor adversely affected during or after construction of the pipeline.

Mr. Cholowski requested that the Board specify construction techniques. He requested that if the pipeline were constructed in the wintertime, that the company use a ditcher and conserve the topsoil. Mr. Cholowski indicated that he had past experience where a backhoe had been used under frozen conditions, and admixing of clay and topsoil occurred. Mr. Cholowski conceded that if the construction occurred in the summer a backhoe would be fine.

Mr. Cholowski also requested that the pipeline be buried a metre and a half below the surface to ensure it is well beyond the depth his farming practices would encounter. Additionally, Mr. Cholowski would like the pipelines to be buried deeper than a metre and a half where the pipeline crosses a ditch.

Mrs. Esch indicated that she would like environmental testing (soil testing) along the pipeline route.

9.2 Route B (Most Westerly Route – West of the Residence)

Centrica said that it initially routed and surveyed the proposed pipeline to the east of the existing residence located in the southeast quarter of section 12-56-21W4M (Route A). At the request of the Eschs, the route was amended to the west of the existing residence (Route B). Centrica said that following the prehearing meeting and further to a request from the western landowners, the route was returned to the originally applied-for Route A. As such, it should be noted that Route B is not an applied-for route.

Views of the Applicant

Of the three western routes, Centrica favored Route B the least and stated at the hearing it was no longer applying for Route B.

View of the Interveners

The interveners indicated that Route B is the least desirable of the three routes proposed on the west side of Highway 830.

9.3 Route C (Application 1269154 or Eastern Route)

Further to the request of landowners along the applied for Route A, in Decision 2002-040, the Board directed Centrica to investigate a route to the east of Highway 830. The resulting Route C starts at the 9-1 pad site, crosses under Highway 830, and then runs north on Mr. Yaworski's land abutting the 50 m highway setback. Centrica developed this route in consultation with Mr. Yaworski.

Views of the Applicant

Centrica said that it prefers Route C above all other routes, as it ties in the six wells at the 9-1 pad site and two additional wells at the 4-7 and 5-7 single well battery sites. Centrica said that this would be a significant benefit to both the company and the residents.

Centrica believes that Route C accomplishes everything that the Berrien route does, without certain complications associated with the Berrien route and with the advantage of tying in the two additional wells. Centrica insisted that Route C was superior to the Berrien route because there is no need to cross, bend around, or otherwise negotiate the existing Penn West Petroleum Ltd. (Penn West) 1-12 well lease.

The lands on the east side of Highway 830 are not zoned for heavy industrial development, but are currently zoned agricultural and planned as a transitional area of commercial or light industrial development. Centrica is of the view that the land east of Highway 830 is likely to be developed later in time than the lands west of Highway 830.

Views of the Interveners

Based on evidence presented by Berrien, the Western Group interveners are of the view that the routes on the west side and Route C on the east side are basically equal routes. Some of the landowners/occupants west of Highway 830 prefer Route C, as the pipeline would not traverse their lands.

In his evidence, Mr. Berrien said, "if you had given me a blank map without any routes on it at all and said, Mr. Berrien, pick a route, I would have probably picked the east side for simplicity, straightness and all the rest of that. But that is not what I am left with. I'm presented with an A, B, C. I look at that."

The interveners indicated that this route greatly reduces the potential for interference with possible future industrial development by abutting the 50-m highway setback. According to Berrien this could reduce, by 90-95 per cent, the likelihood that the pipeline would have to be removed.

Mr. Yaworski expressed concerns with respect to the impact that the proposed pipelines may have on plot research he participates in, and gets paid for by different agricultural companies. Mr. Yaworski explained that there are two components to the research: field scale research, where they go in with normal field equipment and do replicated trials and collect yields and other

data for the companies. There is also a small plot research component where the companies usually come in and contract a piece of land, then come in with their smaller equipment and do their research trials, usually on plots 1 metre by 2 metres in size.

Mr. Yaworski expressed a concern that if the pipeline is placed where the trials are or would be, it could have a direct impact on them and the data would be lost. Mr. Yaworski raised concerns about what type of effect the pipeline would have on the data, considering there could be moisture differences.

In response to questioning on his research plots, Mr. Yaworski confirmed that the plots are usually small and that companies like to plant them close to the road so they are easier to access. He noted that the land is actually contracted to the companies, and they conduct the work with their specialized equipment.

Mr. Yaworski also indicated that they have had the plots in locations where companies have had to drive across his fields to access them and that in these situations there is a bigger expense to the companies because of crop damages they have to pay for. He also noted the inconvenience to the landowners, as they have to work around the research plots with their farming practices.

Mr. Yaworski indicated that he would not lose part of his business, but that a pipeline would create a restriction, so the plots couldn't go where the pipeline is located. Mr. Yaworski also expressed a concern that if an incident occurred on the pipeline that was in close proximity to the research plots, there could be a loss of data for the year.

In response to the Board's letter of October 16, 2002, Mr. Yaworski, in his letter of October 24, 2002, advised that the locations for the research trials vary year to year depending on crop rotation, herbicide rotation, and other considerations. His concern with the placing of the pipeline along the eastside of the highway is that this creates a larger buffer that cannot be used in the research trial. He stated that this can impact the site selection because the companies often want high visibility locations with easy access to major routes where customers or employees traveling by can stop to inspect the sites and the research going on. By having to leave either a large unworked or unseeded buffer (made larger due now to the pipeline) or a cropped strip not part of the actual research, the access and "presentation" of the site can be negatively impacted. He stated that his business card picture showed the 2001 trial, which consisted of approximately 10 acres with around 1800 individual replicated trials. The closeness to the driveway and major highway was a deciding factor in placing the site there for that year. In conclusion, the issue for Mr. Yaworski is not that there are definite plans for trials to be located along this route, but that the pipeline will discount or disallow this perfectly good site from being used at any time in the future.

9.4 Berrien Route

The Berrien route was proposed in the Berrien Report, submitted by the interveners' consultant prior to the hearing, as an alternative pipeline route west of Highway 830. Similar to Route C, this route reduces the potential for conflict with possible future industrial development by abutting the setback 50 m to the west of Highway 830. This route parallels the west side of Highway 830 and intersects the Penn West 1-12 well lease. Although this route was discussed at the hearing, Centrica did not apply for this route.

Views of the Applicant

Centrica said that it was prepared to apply for the Berrien route if Penn West would consent to the pipelines crossing its 1-12 well lease. After consultation with Penn West, Centrica stated that Penn West had indicated that it was not willing to consent to Centrica crossing its 1-12 well site.

Centrica stated that Penn West cited concerns regarding:

- the presence of a right-of-way across its well site,
- the proximity of the right-of-way to the wellhead,
- problems that may arise if Penn West wishes to reclaim and abandon its well site while the pipeline is still operating, and
- the potential assumption of liability in relation to a pipeline on its lease.

Centrica is concerned that if it were to apply for the Berrien route, Penn West could raise an objection to that route and thereby initiate a new hearing process. Centrica also raised concerns about the proximity of this route to Penn West's wellhead.

Furthermore, Centrica noted that Mr. Yaworski did not indicate he would consent to the 4-7 and 5-7 tie-ins that would be necessitated if the Berrien route were modified to include the tie-in of these well sites. As a result, Centrica did not submit an application for this route.

Centrica noted that Mr. Cholowski raised the issue of drainage. A drainage draw crosses the access road to the 9-1 well site on Mr. Cholowski's land. In order to address this issue, Centrica committed that it will ensure surface drainage is not adversely impacted on either side of the Highway 830.

Centrica said that the Berrien route does not tie in the 4-7 and 5-7 wells. The applicant indicated that in terms of a tie-in of the 4 - 7 well, this route presented the challenges of crossing Highway 830 and the Penn West 1-12 well lease.

Views of the Interveners

Berrien said that a route just inside the property line on either side of Secondary Highway 830, respecting the 50 m setback required by Alberta Transportation, is optimal and would have the least impact on future land use. Berrien, independent of the interveners, conceived the Berrien route. An assessment to determine if there were any objections to this route was not conducted. Berrien indicated that this route and Route C are very similar. He indicated that the prospect of conflict with future land use development can be minimized if the pipelines are located parallel to an existing roadway at the minimum setback.

Counsel for the interveners advised that due to liability concerns and possible problems with respect to reclamation and setbacks, Penn West would not consent to the Berrien route, and as a result, the interveners stated that the Berrien route would not be considered as a possible alternative.

Mr. Yaworski of the Eastern Group indicated that the Berrien route made sense compared to Route A and Route B. The Western Group indicated that the Berrien route was their most preferred route of the routes proposed on the western side of Highway 830.

Mr. Cholowski raised concerns regarding drainage on his property. He said that if the pipelines were placed on his lands, he would want the pipelines buried deep enough to accommodate leveling of the hill on the northeast quarter of section 1-56-21W4M and to accommodate industrial use. Mr. Berrien indicated that it is possible to cross a drainage channel with a pipeline by merely installing the line deeper through the area.

9.5 Routes D, E, and F

On October 16, 2002, the Board sent a letter to the parties (Appendix 1), advising that it had reopened the hearing to consider additional information about alternative pipeline routes that had not been fully examined. The Board directed parties to comment on the alternate routes according to a schedule that completed on November 12, 2002.

The Board stated as follows:

> The Board believes that there are alternative pipeline routes that have not been fully examined and therefore it directs that the parties comment on the following routes:
>
> - Potential Route D: A complete Berrien route on the west side of the highway that abuts the 50 m setback to the west of Highway 830, except that the pipeline is routed to the west to go around the perimeter of Penn West's 1-12 well site, as it moves from LSD 9-1-56-21W4M to LSD 9-12-56-21W4M. The 4-7 well would be tied in to the Berrien route pipeline by a highway crossing either north or south of the Penn West lease. The 5-7 well would be tied in to the existing pipeline immediately to the north of the 5-7 well site.
> - Potential Route E: A complete Berrien route on the west side of the highway as noted above, except that instead of going west around the Penn West well site, the pipeline would cross Highway 830 on the south side of the Penn West well site to connect Centrica's 4-7 well, then cross the highway again on the north side of the Penn West well site to continue on the Berrien route. As above, the 5-7 well will be tied in to the existing pipeline immediately to the north of the 5-7 well site.
> - Potential Route F: A split of the pipeline route, first following the Berrien route on the west side of the highway from the 9-1 pad site to the south side of the Penn West 1-12 well site, then crossing Highway 830 to connect the Centrica 4-7 well and then proceeding north following the applied for Route C to the Centrica 5-7 well.
> - All routes and applications should ensure that the 9-1 pad, the 4-7 well and the 5-7 well are tied in.
>
> The Board directs that the parties consider these routes and provide comments and comparisons on the feasibility and/or difficulties of each route. [7]

The following section will address this issue.

Views of the Applicant

Centrica reviewed Routes D, E and F and stated that it will build the pipeline wherever the Board determines appropriate; but, as stated previously in relation to a potential Penn West objection, Centrica does not wish to apply for a route that gives rise to a new hearing. That includes any route not considered at the hearing and to which affected parties may object. Not only would Routes D, E and F give rise to a new hearing, but Centrica stated that they are inferior to Route C.

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[7] Appendix 1, Page 1 of October 16, 2002, letter to parties

Routes D, E and F each traverse some portion of the Yaworski lands. Centrica stated that Mr. Yaworski was clear at the hearing that he would not consent to a short 4-7 tie-in route on his land, unless the lease site was expanded, which would require annual compensation. As the Board requested, Centrica spoke with Counsel who advises that Mr. Yaworksi's views have not changed. Centrica stated that Mr. Yaworski would not consent to a 4-7 tie-in, unless the lease site is expanded.

Likewise, Routes D, E and F traverse lands west of the highway and differ in part from the Berrien route discussed at the hearing. Centrica advised that some of those landowners will also not consent to those routes, since they prefer Route C.

Centrica stated that Routes D, E and F are inferior to Route C, having regard to objective routing criteria. In Centrica's view, Route C remained the most direct, straightforward route. Centrica stated Mr. Berrien fairly allowed that if he had been given a blank map, he would have "picked the east side for simplicity, straightness and all the rest of that." Moreover, Centrica stated Route C traverses lands not zoned for future heavy industrial development. Centrica does not believe pipelines impede future industrial development, but the issue is minimized east of the highway.

Views of the Interveners

Mr. Yaworski stated that he is in agreement with proposed Routes D and E, on the condition that the portion of the route on his side of the highway must remain within the boundaries of the leased area for well site 4-7. If the route was required to go outside of the leased area then that would require additional negotiations with Mr. Yaworski, and if those negotiations failed, then a further hearing would be required. Mr. Yaworski did not agree with Route F as he considered that the easiest tie-in of the 5-7 site is to the north, making the line between 4-7 and 5-7 unnecessary on the east side since the shortest tie-in for the 4-7 site is to a line across the highway.

Mr. Yaworski's letter of October 24, 2002, provided additional information with respect to the research trials. These comments have been included in the Views of the Parties in an earlier section of this Decision. His concern with the placing of the pipeline along the east side of the highway is that creates a larger buffer that cannot be used in the research trial. He stated that this can impact the site selection because the companies often want high visibility locations with easy access to major routes where customers or employees traveling by can stop to inspect the sites and the ongoing research. In conclusion, the issue for Mr. Yaworski is not that there are definite plans for trials to be located along this route, but that the pipeline will discount or disallow this site from being used at any time in the future.

Mr. Yaworski stated the split route has the same impacts on the SW quarter of section 7 along the highway since there is good access and visibility potential for that area also.

Mr. Yaworski stated that he could tolerate and accept pipeline crossings on either side of the 4-7 site since the affected area is minimized and he would need to stay back a safe and reasonable distance from the well site in any case.

The Eschs and Guenettes were opposed to Route D on the basis that the route is too close to the Esch residence and would pose a safety hazard. Further, they were concerned about the

fragmentation of the Esch property by the Berrien route. The Eschs considered that Route D would greatly reduce their property value. Route E eliminated the safety concern but the Eschs and Guenettes remained concerned that the Esch property would be fragmented as aforementioned.

The Eschs and Guenettes considered that Route F was the most agreeable of the three routes of D, E, and F. However, they were concerned about Penn West approaching Cholowskis with a proposed 16-1 well site and the complications on routing that would result. The Eschs and Guenettes considered that Route F would therefore have to cross to the east side south of the proposed 16-1 well site. The Eschs and Guenettes concluded that Route C was the most suitable option. Further, Guenettes commented about Mr. Yaworski's concerns about research plots on his property and did not consider the pipeline to be an obstacle.

10 VIEWS OF THE BOARD - PIPELINE ROUTING

10.1 Views of the Board – Route A and Berrien Route

As previously discussed, the Board finds that the public interest, both locally and provincially, would be served by the tying in of eight oil wells which would result in the conservation of solution gas (eliminates venting of gas at some sites); the elimination of impacts associated with the trucking of production from the sites and the elimination of the noise associated with the generation of power at the 9-1 pad site. All parties to the hearing supported these positive attributes of the applications before the panel.

The Board considered the evidence in the proceeding and the impacts on the various parties of the applications.

The Board notes the evidence of Berrien that the routing of the pipelines parallel to Highway 830 would diminish the potential for adverse effects. Given that Centrica did not indicate any material additional cost and given the potential benefit to the landowners, the Board believes that any pipeline route should, as much as practical, be located parallel to Highway 830 at the minimum setback to minimize future interference with development of the lands in question. Accordingly, the Board does not approve Route A. The Board believes this westerly route could be optimized to reduce landowner impact.

Given all of the factors associated with the potential pipeline routing, the Board believes that the Berrien route would have been the preferred route, if this route was before the Board and if two issues had been satisfactorily addressed subject to the discussion below.
(Click here to go to the Summary of Key Findings)

The first issue relates to satisfactorily addressing issues related to proximity to the Penn West well site. However, since Penn West was not a participant at the proceeding and did not give its permission for the Berrien route, the Board does not fully understand the implication of this route on Penn West. The second issue relates the tie-in of the current eastern wells (i.e., the 4-7 and the 5-7 wells).

If possible and practical, the Board does believe that a route west of the highway would likely be the preferred route and would result in the least disruption to all parties involved. Any route, including a Western route should follow the design criteria of the Berrien route.

The Board notes that the westerly routes are in the general area of existing pipelines. The Board notes that the SE quarter of section 12 already has pipelines on it. Except for the issue associated with the pipeline removal, the Board notes that Mrs. Esch indicated a willingness to accept the pipeline on her land.

The Board agrees with parties that all 9-1 pad, the 4-7 and the 5-7 wells should be tied in to a gathering system as soon as possible to conserve natural gas and eliminate trucking. In this regard, based on the evidence in this proceeding, the Board notes Mr. Yaworski's comments that pipeline crossings on either side of the 4-7 site to cross the highway could be tolerated and accepted.
(Click here to go to the Summary of Key Findings)

Parties on both sides of Highway 830 raised concerns about the impact of the pipeline on drainage issues of the farm land and the depth of burial of the pipeline on certain aspects of their farming operations. The Board notes that Centrica has committed to addressing those concerns on whichever route is approved and therefore the Board is satisfied that these issues respecting pipeline routing have been adequately addressed.

(Click here to return to the Table of Contents)

10.2 Majority View of the Board – Route C

Although parts of Route C could be acceptable, the Board majority does not believe that Route C is itself acceptable. The Board majority notes the concern of the Mr. Yaworski about the impact of Route C on his agricultural plot testing business. The Board majority believes this concern to be legitimate. Accordingly, the Board majority does not approve the complete Route C as being optimal, without prejudice to a future application.
(Click here to go to the Summary of Key Findings)

Further, the Board majority notes that Mr. Yaworski had concerns about the 9-1 pad site wells being drilled on his land and that subsequently, the wells were then drilled on Cholowski's land with the consent of the Cholowskis. The Board majority believes that it would be fairer for Cholowskis to have at least part of the pipeline route on its lands, given that the Cholowskis accepted the drilling of the wells.

The Board majority believes that Centrica's concern about the Berrien route not being able to tie in the 4-7 well is not of substantive merit given that its preferred Route C requires one highway crossing.
(Click here to go to the Summary of Key Findings)

(Click here to return to the Table of Contents)

10.3 Minority View of the Board – Route C

The Board minority finds that it would be in the public interest to approve Application No. 1269154, referred to as Route C in this report.
(Click here to go to the Summary of Key Findings)

In considering the broad public interest in matters such as this, Board minority notes that it is important to recognize that approving an application, which is in the public interest does not

imply that the Board does not recognize local or site-specific impacts may result from the development proposed in the application. The Board minority considers that the challenge for this or any other Board panel is to ensure that those impacts are reasonable, are within the applicable provincial standards, and have been mitigated to the extent possible or appropriate.

The Board minority acknowledges that the benefits of tying in of the 8 wells could be attained through approval of any of the applications before the panel or the four additional possible routes that have been discussed with the parties to this hearing. The one exception to this would be that Route A would not tie in the 4-7 and 5-7 wells. Therefore, the outstanding question in the mind of the Board minority is whether impacts associated with all of the applied-for applications warrant the denial of any or all of these applications. In the opinion of the Board minority, a denial would have to be based on inappropriate or unacceptable levels of impacts associated with the applied-for pipelines or the existence of a clearly superior alternative routing for the pipelines.

With respect to impacts of the applied-for pipelines, the Board minority notes that the major impact of a pipeline will be on the existing land use which is farming for all of the lands in question. The impacts could be both short and long term, as they relate to the landowners' and occupants' abilities to farm the land for some period of time and the ongoing productivity of the land following the installation of the pipelines and completion of the reclamation of the right-of-way.

The Board minority considers that the short-term impact can and would be addressed through the right-of-way agreements for the pipelines and, if necessary, through the Surface Rights Board (SRB). The Board minority considers that any short-term loss of productivity could be compensated and again would be addressed through the right-of-way agreement or the SRB.

The Board minority notes that the potential for the longer-term impact on the productivity of the land can and would be addressed through the reclamation of the pipeline right-of-way following the installation of the pipeline.

In any event, given that the land use for all of the lands in question is farming, no matter which route is ultimately followed, the Board minority believes that the level, nature and potential for long-term direct impact to affected lands would be the same. In this regard, the Board minority finds that there is little or no difference respecting the impacts of any of the applied-for or suggested routings for the pipelines. The Board minority believes that with proper reclamation of the pipeline right-of-way, there would be no long-term impact of any pipeline routing on the farming operations on any of the lands.
(Click here to go to the Summary of Key Findings)

The interveners raised concerns respecting devaluation of their land, particularly as it relates to the lands zoned for industrial use. However, none of the interveners presented any evidence to support this concern. In fact, upon questioning, the consultant for the interveners acknowledged that if the pipeline was located immediately adjacent to the 50-metre set back from the highway, as the consultant proposed, it was unlikely that the pipeline would have any impact on land values (less than a 5 per cent probability). The Board minority does not believe that the pipeline would have any impact on land value.

In the opinion of the Board minority, there are three issues/matters that could result in favouring one pipeline route over the others. The first issue relates to the proximity of the pipelines to the occupied residence on the Eschs' land. Route C is the only routing of the pipelines either applied for by Centrica or considered as alternative routes referenced in the Board's letter of October 16, 2002, that would not come in close proximity to the occupied dwelling. Although the Board minority does not believe that any of the other routes would pose a significant or unacceptable hazard to the occupants, the 100+ metre separation of Route C from the dwelling, including the intervening buffer provided by the highway, does favour that route over the others. Increased separation of active oil and gas facilities from an occupied dwelling is always a preferred option when considering the siting of new facilities. The Board minority believes that Route C would certainly meet this test.

The second issue and difference between Route C and Routes D, E, and F is their respective proximity to the active oil well and pipeline owned by Penn West. As routes D, E and F were not applied for, the exact separation of the Centrica pipeline from the Penn West well cannot be specifically identified. Consequently, the exact risks associated with any of these routes cannot be evaluated. It can, however, be stated with a high degree of confidence that the placement of facilities owned by two different companies in close proximity to one another increases the operational risks to both companies. The Board minority acknowledges that this increase in risk may not be unacceptable or inappropriate. However, as was the case with the proximity to the occupied residence, where there is an alternative, which would provide increased separation of the two different operations, the increased separation distance would favour Route C.

The third area of difference relates to Mr. Yaworski's existing or proposed use for experimental agricultural test plots of the lands that would be traversed by the pipelines following Route C. Route F would also traverse some of Mr. Yaworski's lands so that any downside related to Route C would also apply to a portion of Route F.

As has previously been stated in this section of the report, the Board minority is satisfied that the lands could be restored to their productive capability upon reclamation of a pipeline right-of-way to the provincial standards set out by Alberta Environment. Therefore, the Board minority is satisfied that the construction of the pipelines would not inhibit the resumption of any existing test plot activity or the development of new test plots on the lands in question.

The Board minority considers that the issue, therefore, seems to be whether the existence of pipelines and a properly reclaimed pipeline right-of-way would have a real or perceived impact on Mr. Yaworski's ability to attract interest in the further development of test plots. The Board minority does not believe that this would be the case. In the opinion of the Board minority, if anything were to detract from the use of these lands for test plots, it would be the existence of active surface oil and gas facilities on lands adjacent to or in close proximity to the plots. Based on Mr. Yaworski's evidence, it appears that he has been able to continue with the experimental plots even though there are already a number of surface facilities on his land. Therefore, the Board minority does not accept that the existence of pipelines would detract from Mr. Yaworski's ability to continue with the development of test plots on the lands over which Route C would traverse.

In summary, the Board minority finds that Route C, as applied for in Application No. 1269164, provides:

- the most direct route to tie in all of the wells in question;
- the least impact on the occupied dwelling in the SE quarter of Section 12, TWP 56, Range 21 West of the 4th Meridian;
- no conflict with the Penn West 4-12 oil well located at 1-12-56-21W4M;
- no unacceptable level of impact on the farming operations following the reclamation of the pipeline right-of-way to the Provincial Standard; and
- a route immediately adjacent to the 50-m setback from the highway as recommended by the consultant for the interveners.

The difference in opinion among the members of the panel relates to the impacts of Route C and whether a better alternative exists, applied for or not. For the reasons outlined above, the Board minority finds no evidence to support the existence of an alternative route that would significantly or materially reduce impacts on or increase benefits to any or all of the parties to these applications.

In the absence of any compelling evidence to the contrary, the Board minority sees no benefit to denying Route C. In fact, doing so could eliminate any benefits that might have otherwise been attained by this project. It is the opinion of the Board minority that this is a real possibility given that none of the landowners want a pipeline on their land unless there is a condition that would require removal of the pipeline upon abandonment of the pipeline. Consequently, the Board minority considers that any new project/application would be faced with the same level of opposition as the current applications and would undoubtedly require some further adjudication by the EUB.

(Click here to return to the Table of Contents)

10.4 Views of the Board – Future Pipeline Applications

The Board wishes to be clear that tie-in of these wells is desirable. Without prejudice to the Board's decision in this application, Centrica may apply or reapply for any pipeline route. If consent from the landowners or Penn West for the selected route(s) cannot be achieved, the Board would consider conducting any future proceeding, if necessary, in a prompt manner.
(Click here to go to the Summary of Key Findings)

Should a future proceeding be required, the Board requests that parties provide advice to the Board, respecting whether a written process or an oral process is appropriate, given the thorough nature of the oral proceeding to date and the amount of new information that might need to be addressed. Further, the Board would appreciate the views of parties on how to utilize the substantial record already developed in this proceeding in any future proceeding to avoid incurring unnecessary costs and to avoid undue time delays.
(Click here to go to the Summary of Key Findings)

Although some alternatives were provided in the Board's letter of October 16, 2002, Centrica did not apply for additional alternative routes. Accordingly, the Board will not provide further comment on the future routing that might ultimately be acceptable until an application has been made and the views of affected parties have been addressed in a proper proceeding.

(Click here to return to the Table of Contents)

11 SUMMARY OF KEY FINDINGS

This section is provided for the convenience of readers. The reader is cautioned, however, that a summary of this nature is open to legitimate differences of opinion as to which findings may be considered "key". For this reason, readers should not rely on this section as a means to fully appreciate the totality of the Board's findings in this Decision. Such an appreciation can only be obtained by reading all of the Board's findings set out in this Decision.

In the event of any difference between the Key Findings in this section and those in the main body of the report, the wording in the main body of the Decision shall prevail.

(Click here to return to the Table of Contents)

1. The Board agrees that there is a need for the proposed pipelines. It also notes that the interveners did not contest the need for the pipelines. 4
2. The Board is of the view that it has the authority under subsection 9(1) of the *Pipeline Act* to attach a condition to a pipeline license requiring the removal of a pipeline upon abandonment; the applicant and the interveners shared this view. 6
3. Therefore, the Board believes that it would be helpful to review some key elements of the current practice and policy with respect to pipeline matters as follows: 9
   - All pipelines remain on EUB records, whether or not the pipelines are operating, discontinued or abandoned. 9
   - Pipelines, in the ordinary course, do not need to be removed upon abandonment. 9
   - The best time to determine appropriate abandonment procedures is when the pipelines are no longer required and better information might be available to consider all of the impacts. 9
   - Parties who may be directly and adversely impacted have the right to object to any proposed abandonment procedure. 9
   - Costs for a future proceeding related to a bona fide objection to any abandonment procedure would be determined through the local intervener cost rules in force at the time of that proceeding. 9
   - At any time during the pipeline's life, landowners and other affected parties could approach the Board for remedies, such as moving or removing the pipeline, if the pipeline was imposing unacceptable impacts. 9
   - Landowners or other affected parties can ask the Board to revisit these issues and remedy adverse situations, even after approval to abandon the pipeline in place has been granted. 9
   - The right to object to or revisit these issues exists regardless of any agreement that the parties might have otherwise signed. 9
4. The Board believes that existing legislative provisions, statutory protections and EUB policy address some of these issues. These provisions are as follows: 10
   - Under the *Environmental Protection and Enhancement Act*, the person responsible for a substance is required to remediate a release under Section 112. 10

- Under Section 113, an environmental protection order can be issued to that person. Additionally, under Section 25 of the *Pipeline Act*, a licensee's liability continues post-abandonment. 10
- With respect to environmental measures, Alberta Environment has processes to remedy situations at any time during the life of the pipeline. 10
- The Orphan Fund is responsible for reclamation of orphan facilities. 10
- The Board believes that contamination liability should not fall to landowners, and the Board believes that current legislation is in place to ensure that licensees bear full responsibility. 10
- The Board believes that landowners should not be burdened with costs or other unacceptable impacts as a result of a pipeline, whether operating, discontinued or abandoned. 10

5. If the Board were to approve one of the subject applications, the Board needs to be satisfied that none of the potential impacts identified below warrant the imposition of a condition that would require the removal of the pipelines at the time of abandonment, given that this was a major issue for the interveners. The following potential impacts were considered in reaching a conclusion respecting the need for the removal condition: 11
   - Negative impacts on farming operations, including deep tillage; 11
   - Negative property value impacts (recognizing the difficulty of proof); 11
   - Extra costs of developing the land for industrial purposes including incremental costs with removal of the pipeline; 11
   - Other negative impacts of abandoning the pipeline in place; 11
   - Migration of pollutants onto or leaving the land via abandoned pipeline transport; and . 11
   - Environmental liability costs. 11
6. Given that the Board believes that the existing ID 2000-09 needs to be updated, as a mitigating measure, the Board has determined that it would include conditions in an approval regarding notification to the landowners. These conditions would be as follows: 12
   - Notification and consultation must be provided to any affected parties, including landowners along the length of the pipeline, of the intended abandonment by removal or abandonment in place of the pipeline. 12
   - The notification must include advice to the affected parties that they have the right to object to the EUB and the opportunity to request the Board to convene a hearing or proceeding. 12
   - The notification must include the advice to the affected parties that the pipeline company would normally be responsible for intervener costs, according to the then current directions and practices of the Board. 12
   - The notification must include the proposed plan in sufficient detail for interveners to understand the technical approach to removal or abandonment in place, the timing for feedback and the impacts. 12
   - The notification must advise that the affected parties have the right to object at some future time and request removal of the pipeline even if they agree to abandonment in place at the time of notification. 12
7. The Board believes that many of the terms of the addendum are reasonable conditions that parties could voluntarily agree to as part of the normal negotiating process 13
8. The Board believes that the determination made in Decision 2002-020 to exclude the addendum conditions as part of the pipeline approval continues to be valid. Reasonable

approaches by both parties will prevent the application from reaching the EUB adjudicative stage and will result in the establishment of a good working relationship between the parties. 14

9. One of the issues between the parties revolved around the meaning of "notification." The Board requires and expects the following: 17
   - Licensees proposing a pipeline abandonment project provide affected parties with the information outlined in Guide 56, Appendix 1: Public Involvement Guidelines—Minimum Information Requirements. 17
   - In general, this information package would contain sufficient written information and description to allow the recipient to assess the impact of the total project and to participate in the decision-making process. 17
   - The licensees' notification package would also contain a copy of the information outlined in Guide 56. 17
   - This package will afford affected parties an opportunity to provide input on abandoning the pipeline in place versus pipeline removal, and to raise other concerns. 17
   - Although Guide 56 provides that no formal application is required for pipeline discontinuation and abandonment, it also provides that a formal application may be required if an objection is received. 17
   - The Board would consider such an objection as an objection under section 26 of the *Energy Resources Conservation Act,* which could ultimately result in a Board hearing. 17

10. The Board confirms that pipeline licensees are required to notify all landowners, occupants and those within setbacks along a right-of-way, of any impending pipeline abandonment prior to those operations taking place. This includes landowners who are in mid-line locations of a pipeline. In the case of Centrica's pipelines, the Board would require that the licensee notify all parties in accordance with these requirements. 18

11. Given the matters of interpretation of the Board's pipeline abandonment notification and application process that surfaced at this hearing, this panel of the Board hereby requests staff to review ID 2000-09 and address the issues raised by the Board in this Decision. This includes reviewing the Guide 56 application requirements. 18

12. On a related matter, the Board is concerned about the potential for confusion that landowners could experience from standard Right-of-Way Agreements. In Exhibit 24, a portion of the standard form of Clause 11 was struck out. The standard form of Clause 11 had a provision in the agreement that stated: 18
   - PROVIDED HOWEVER, that the Grantee may, at its option, leave and abandon the said pipeline or pipelines in place. 18

13. Accordingly, the Board will request staff to address, with the appropriate industry associations, the general issue of landowners' rights with respect to the Board's processes vs. the industry agreements that landowners are requested to sign. Further, the Board requests staff to address this general issue in any future revision of ID 2000-09 or other EUB publications to achieve effective communication to landowners of their rights under EUB legislation. 18

14. Given all of the factors associated with the potential pipeline routing, the Board believes that the Berrien route would have been the preferred route, if this route was before the Board and if two issues had been satisfactorily addressed subject to the discussion below. 26

15. The Board agrees with parties that all 9-1 pad, the 4-7 and the 5-7 wells should be tied in to a gathering system as soon as possible to conserve natural gas and eliminate trucking. In this regard, based on the evidence in this proceeding, the Board notes Mr. Yaworski's comments that pipeline crossings on either side of the 4-7 site to cross the highway could be tolerated and accepted. 27

16. Although parts of Route C could be acceptable, the Board majority does not believe that Route C is itself acceptable. The Board majority notes the concern of the Mr. Yaworski about the impact of Route C on his agricultural plot testing business. The Board majority believes this concern to be legitimate. Accordingly, the Board majority does not approve the complete Route C as being optimal, without prejudice to a future application..... 27

17. Further, the Board majority notes that Mr. Yaworski had concerns about the 9-1 pad site wells being drilled on his land and that subsequently, the wells were then drilled on Cholowski's land with the consent of the Cholowskis. The Board majority believes that it would be fairer for Cholowskis to have at least part of the pipeline route on its lands, given that the Cholowskis accepted the drilling of the wells. 27

18. The Board majority believes that Centrica's concern about the Berrien route not being able to tie in the 4-7 well is not of substantive merit given that its preferred Route C requires one highway crossing. 27

19. The Board minority finds that it would be in the public interest to approve Application No. 1269154, referred to as Route C in this report..... 27

20. In any event, given that the land use for all of the lands in question is farming, no matter which route is ultimately followed, the Board minority believes that the level, nature and potential for long-term direct impact to affected lands would be the same. In this regard, the Board minority finds that there is little or no difference respecting the impacts of any of the applied-for or suggested routings for the pipelines. The Board minority believes that with proper reclamation of the pipeline right-of-way, there would be no long-term impact of any pipeline routing on the farming operations on any of the lands. 28

21. The Board wishes to be clear that tie-in of these wells is desirable. Without prejudice to the Board's decision in this application, Centrica may apply or reapply for any pipeline route. If consent from the landowners or Penn West for the selected route(s) cannot be achieved, the Board would consider conducting any future proceeding, if necessary, in a prompt manner.30

22. Should a future proceeding be required, the Board requests that parties provide advice to the Board, respecting whether a written process or an oral process is appropriate, given the thorough nature of the oral proceeding to date and the amount of new information that might need to be addressed. Further, the Board would appreciate the views of parties on how to utilize the substantial record already developed in this proceeding in any future proceeding to avoid incurring unnecessary costs and to avoid undue time delays..... 30

(Click here to return to the Table of Contents)

DATED at Calgary, Alberta, on November 26, 2002.

ALBERTA ENERGY AND UTILITIES BOARD

A. J. Berg, P.Eng.
Presiding Board Member

J. R. Nichol, P.Eng.
Board Member

G. J. Miller
Board Member

APPENDIX 1 – BOARD'S OCTOBER 16, 2002, LETTER TO PARTIES

"2002-10-16 EUB
Letter to counsel - R

(Consists of 3 pages)

(Click here to return to the introductory text where Appendix 1 first referred to)

(Click here to return to text (approx page 27) where Appendix 1 is referred to)

(Click here to return to the Table of Contents)

EUB Alberta Energy and Utilities Board

Calgary Office 640 – 5 Avenue SW Calgary, Alberta Canada T2P 3G4 Tel 403 297-8311 Fax 403 297-7336

October 16, 2002

SENT BY EMAIL

Writer's direct line: (403) 297-3505
Writer's fax: (403) 297-7031
Email: Gary.Perkins@gov.ab.ca

Bennett Jones LLP
Barristers & Solicitors
4500, 855 – 2nd Street SW
Calgary, Alberta
T2P 4K7
Fax: (403) 265-7219

Attention: Mr. Shawn Munro

Carter, Lock & Horrigan
Barristers and Solicitors
200, 9803 – 101 Avenue
Grande Prairie, Alberta
T8V 0X6
Fax (780) 538-3853

Attention: Ms. Andrea Hull

Dear Sir and Madam:

CENTRICA CANADA LIMITED
APPLICATIONS TO CONSTRUCT AND OPERATE A SWEET GAS PIPELINE AND A SWEET OIL EFFLUENT PIPELINE
BRUDERHEIM AREA
APPLICATIONS NO.: 1247777 AND 1269154

This letter confirms my telephone conversation today with each of you regarding the Board's request for additional information with respect to the Centrica hearing.

The Board believes that there are alternative pipeline routes that have not been fully examined and therefore it directs that the parties comment on the following routes:

- Potential Route D: A complete Berrien Route on the west side of the highway that abuts the 50 metre setback to the west of Highway 830, except that the pipeline is routed to the west to go around the perimeter of Penn West's 1-12 well site, as it moves from LSD 9-1-56-21W4M to LSD 9-12-56-21W4M. The 4-7 well would be tied in to the Berrien route pipeline by a highway crossing either north or south of the Penn West lease. The 5-7 well would be tied in to the existing pipeline immediately to the north of the 5-7 well site.
- Potential Route E: A complete Berrien Route on the west side of the highway as noted above, except that instead of going west around the Penn West well site, the pipeline would cross Highway 830 on the south side of the Penn West well site to connect Centrica's 4-7 well, then cross the highway again on the north side of the Penn West well

site to continue on the Berrien route. As above, the 5-7 well will be tied in to the existing pipeline immediately to the north of the 5-7 well site.

- Potential Route F: A split of the pipeline route, first following the Berrien Route on the west side of the highway from the 9-1 pad site to the south side of the Penn West 1-12 well site, then crossing Highway 830 to connect the Centrica 4-7 well and then proceeding north following the applied for Route C to the Centrica 5-7 well.
- All routes and applications should ensure that the 9-1 pad, the 4-7 well and the 5-7 well are tied in.

The Board directs that the parties consider these routes and provide comments and comparisons on the feasibility and/or difficulties of each route.

If it appears to Centrica that any or all of these alternative routes are acceptable to Centrica, in addition to the routes that the Board currently has for consideration, then the Board would encourage Centrica to make an application(s) so that the Board can consider the full range of alternatives for approval in connection with these proceedings.

In addition to the above, the Board also requests the following specific information from Mr. Yaworski with regard to his evidence on research plots:

- Are there existing research plots on your land east of Highway 830 which would be directly impacted by the right-of-way for the applied for pipeline Route C? If so please provide a map which shows the plot (s) locations.
- If you do not have existing plots, do you have firm plans to establish research plots on your land east of Highway 830 which would be directly impacted by the right-of-way for the applied for pipeline Route C? If so, please provide the degree of likelihood of proceeding with this business and a map showing the planned locations.
- Having regard for plot locations, would a split of the pipeline route between the east and west sides of Highway 830 as defined above be more beneficial to you compared to the applied for Route C?
- Having regard for plot locations, would pipeline crossings of Highway 830 either north or south of the Penn West 1-12 well site affect your research plots less than would the applied for Route C?

The Board directs that the parties comply with the following schedule:

- Initial responses to the Board and all parties by October 24, 2002.
- Information requests on the other parties' responses by October 30, 2002, with copies to the Board.
- Responses to the information requests by November 4, 2002, with copies to the Board.
- All parties provide their summary comments to the Board by November 12, 2002.

The Board would encourage parties to dialogue with each other, if possible, about these options in advance of submitting their comments to the Board so that the Board would have the benefit of comments that are based on a clear understanding of the options.

As usual, the Board expects to receive all correspondence by email, in addition to the formal paper copies, per the earlier distribution list provided. All correspondence on the above schedule and matters are to be copied to all parties and to the Board.

The Board expects to be able to make its decision promptly after receipt of this requested evidence.

Please feel free to contact me if you have any questions in relation to these directions.

Yours truly,

<original signed by Gary Perkins>

Gary D. Perkins
Board Counsel

APPENDIX 2 - THOSE WHO APPEARED AT THE HEARING

Name of Organization (Abbreviation) Principals and Representatives	Witnesses
Centrica Canada Limited (Centrica) S. Munro	P. Brimacombe B. Tomas, P.Eng. L. Cornfield
Cholowski Farms Ltd., D. and A. Guenette, R. and Y. Prochnau,* K. and E. Butte, E. Schryver and G. and L. Esch (the Western Group), and M., H., and D. Yaworski* (the Eastern Group) A. Hull	L. Esch D. Guenette R. Prochnau T. Cholowski D. Yaworski C. Melnychuk R. Berrien, of Berrien Associates Ltd. I. Weleschuk, of Berrien Associates Ltd.
Alberta Energy and Utilities Board staff G. Perkins, Board Counsel D. Schafer S. Cartwright T. Pesta, P.Eng. K. Johnston	

* M. and H. Yaworski did not attend the hearing but were represented by D. Yaworski..
Y. Prochnau, K. and E. Butte, and E. Schryver did not attend the hearing but were represented by R. Prochnau.

(Click here to return to the introductory text where Appendix 2 first referred to)

(Click here to return to the Table of Contents)

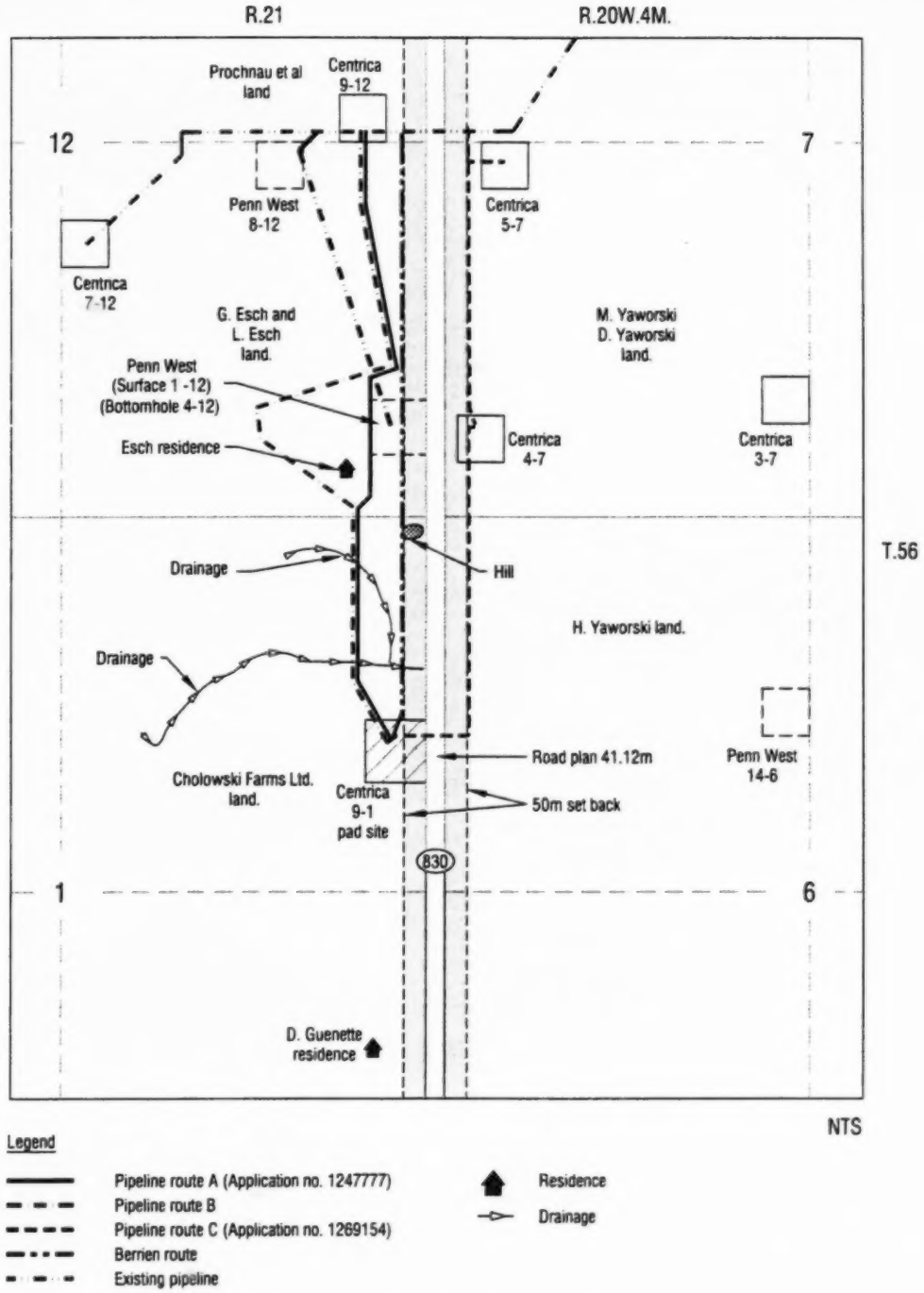

Figure 1. Location of Proposed Pipeline Routes - Redwater Area

Applications No. 1247777, 1269154

Centrica Canada Limited

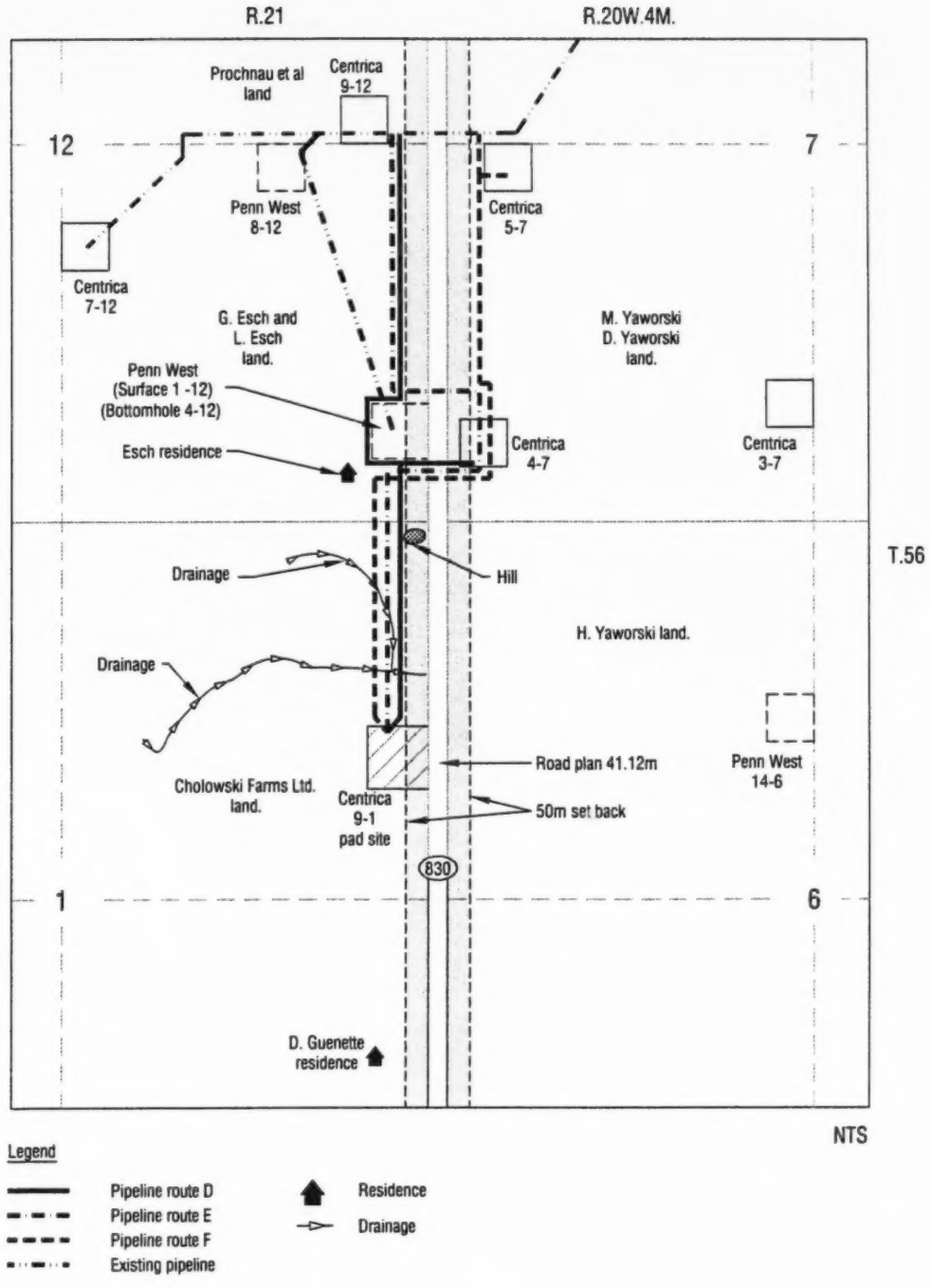

Figure 2. Location of Alternative Pipeline Routes - Redwater Area

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